

# UTILISING BIG DATA FOR NON-PROFIT ORGANISATION IN TACKLING TERRORIST FINANCING IN INDONESIA

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## ABSTRACT

*The role of Big Data is essential in enforcing laws aimed at combating terrorist financing and in the operation of Non-profit organisations. The prioritisation of Big Data utilisation is essential for Non-profit organisations in addressing the challenge of Terrorist Financing. This article aims to analyse the use of Big Data by Non-profit organisations in Indonesia, which are noted for their vulnerabilities and may act as channels for terrorist funding. This article presents a conceptual framework and engages in thorough descriptive analysis. The article employs qualitative methodology with triangulation to assess the theoretical framework and identify legal gaps related to the role of Non-profit organisations in Terrorist Financing, as well as the application of Big Data to mitigate associated risks. The primary reference is grounded in Indonesian regulations pertaining to Non-profit organisations and the Anti-Terrorist Financing Law. This article illustrates how Non-profit organisations can utilise Big Data to reduce their vulnerability to threats and risks linked to terrorism financing while simultaneously improving reporting compliance, accountability, and transparency regarding their financial resources. Non-profit organisations and reporting parties must ensure compliance with the verification and monitoring of suspicious transactions.*

**Keywords:** Big Data, Disclosure, Financing of Terrorism, Non-profit organisations, Terrorism

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## INTRODUCTION

Non-profit organisations (NPOs) significantly contribute to a nation's economic activity by addressing issues such as environmental protection, humanitarian assistance, human rights, and religious matters. Due to Indonesia's constrained state resources, non-governmental organisations (NGOs) are often utilised as collaborative partners. They receive funding from community donations, donor agencies, and fundraising efforts, rendering them essential for community development and governmental efficacy. NPOs frequently work to address inequality and disadvantage for specific groups of beneficiaries or to serve the larger public interest.<sup>1</sup>

The Financial Action Tasks Force (FATF) restricts terrorism financing through Non-profit organisations that manage a substantial share of financial resources and engage in substantial overseas operations. Due to their distinct characteristics, domestic Non-profit organisation sectors demonstrate increased vulnerability to terrorist offences. Foreign jurisdictions may present reduced risks depending on the national context.

The term NPO in Indonesia is defined in Law Number 16 of 2017, which amends the earlier Law Number 17 of 2013 regarding Community Organisations (later known as the Indonesian NPO regulation). Each of its forms has its law, such as the Law of Foundations, the Law of Associations, and the Law of Community Organisations. The definition of NPOs in Indonesia is broad and lacks precise boundaries, which affects the extent of their regulation. Indonesian law recognises three primary forms of Non-profit organisations (NPOs).

Article 10 of the Indonesian NPO regulation distinguishes between two forms of Community Organisations: legal entities and non-legal entities, with member-based and non-member-based structures. Furthermore, Article 11 states that Community Services, which are legal entities, can take

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<sup>1</sup> Vien Chu and Belinda Luke, 'NPO Web-Based Accountability: How Can We Know If NPOs Are Doing Good Things?' (2023) 52 Nonprofit and Voluntary Sector Quarterly 75.

the form of Associations and Foundations. An association is a legal entity based on its members, whereas a Foundation is a legal entity that is not based on its members.

Under Indonesian Law, these Non-profit organisations are classified as organisations. NPOs may exist as either legal entities or non-legal entities lacking legal status. Consequently, accountability and transparency are critical issues that must be addressed in the context of terrorist financing challenges.

Through the organisation of the definition and form of NPOs, it can actually be interpreted as *a contrario* that the main forms of NPOs, in the broadest sense, are Foundations, Associations, and Community Organisations, which provide non-legal entity status. In this case, it can be a reflection on how contextualised the form of NPOs can be operationalised for prevention needs within the Anti-Money Laundering/Counter Financing of Terrorism (AML/CFT) regime.

Financial management should exhibit transparency and accountability, necessitating the use of an account at a national bank. Article 38 of the Community Organisations Law stipulates that community organisations are required to prepare financial accountability reports in accordance with general accounting standards or their articles of association and bylaws and to publish these financial reports to the public periodically.

Big Data may be required concerning the situation. Processing Big Data necessitates the use of specialised technologies, including data distribution systems, machine learning algorithms, and distributed data analysis, which facilitates the extraction of information and insights from Big Data collections. Big Data is utilised across multiple domains, including advertising, finance, and healthcare, to enhance decision-making and increase efficiency. Non-profit organisations may require Big Data processing.

## ARTICLE TYPE

This article is theoretical and conceptual analytical. This article employs qualitative methodology with triangulation to assess the theoretical framework and identify legal gaps related to the role of Non-profit organisations in Terrorist Financing, as well as the application of Big Data to mitigate associated risks. The analysis began with an examination of the role of Non-profit organisations as essential support for economic activity despite the absence of government funding. The emphasis is on the compliance of Non-profit organisations in the reporting, analysis, and decision-making processes regarding the acceptance or rejection of potential and actual donors. Non-profit organisations will contribute to efforts aimed at combating the financing of terrorism.

## DISCUSSION

### **The Urgency of Non-Profit Organisations in the Fight Against Criminals**

A Non-profit organisation (NPO) is understood as an entity that does not pursue financial gains in its operational activities. Non-profit organisations may be classified as Non-profit oriented yet remain integral to a nation's economic activities. Non-profit organisations (NPOs) focus on a range of issues, including environmental, humanitarian, human rights, and religious matters.

The Financial Action Tasks Force (FATF) defines an NPO as a legal person arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes or the carrying out of other types of "good works".<sup>2</sup> Furthermore, in its elaboration, the FATF provides a limitation stating that the implementation of Recommendation No. 8 by the FATF does not apply

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<sup>2</sup> Financial Action Tasks Force (FATF), 'BEST PRACTICES COMBATING THE ABUSE OF NON-PROFIT ORGANISATIONS (RECOMMENDATION 8)' (2015) <[www.fatf-gafi.org](http://www.fatf-gafi.org)>.

to all types of NPOs but rather to NPOs that have a high risk of being misused for terrorism financing.

NPOs have the primary objective of addressing various issues that attract public attention but are non-commercial and Non-profit oriented. The presence of NPOs is actually significant, as is the case in Indonesia, due to the Government's limited resources to address human resources and poverty. NPOs are often used as working partners for the Government. The existence of NPOs will support the performance of the Government. The existence of NPOs is also guaranteed by Article 28E, subsection (3), of the 1945 Constitution of the Republic of Indonesia.<sup>3</sup> In supporting themselves, NPOs obtain funding sources from various schemes, including community donations, state budgets, local budgets, donor agencies (both domestic and foreign), other institutions in the form of project cooperation, and fundraising (through the Organisation's business unit).

NPO has an important role. According to Jay Weerawardhana et al., NPOs contribute substantially to the third sector of the economy by providing goods and services absent in the commercial or public sectors, fostering skill development, generating employment, and promoting social inclusion pathways.<sup>4</sup>

However, in the context of terrorism financing, referring to the restrictions provided by the FATF, the NPOs referred to must be NPOs that control the majority of financial resources in the relevant sectors, as well as NPOs that play a prominent role in international activities. Similarly, in other jurisdictions, an assessment of domestic NPO sectors, together with an awareness of the risk of terrorism financing in such sectors, may suggest that the likelihood of terrorist offences is higher for NPOs with specific features.<sup>5</sup> In other jurisdictions, the risk of terrorist financing in the sector

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<sup>3</sup> Article 28E, subsection (3), guarantees that everyone has the freedom of organisation, the freedom of assembly, and the freedom of speech.

<sup>4</sup> Jay Weerawardana, Robert E McDonald and Guillian Sullivan., 'Sustainability of Nonprofit Organizations: An Empirical Investigation' 45 *Journal of World Business*.

<sup>5</sup> Financial Action Tasks Force (FATF) (n 2).

is lower, given the country's specific context. NPOs engaged in expressive and service activities should establish guidelines and criteria to mitigate vulnerability.<sup>6</sup>

Based on the explanation from FATF, it can be understood that the regulation of NPOs' risk mitigation for the vulnerability of terrorism financing abuse is significant. The objective is to prevent terrorist organisations from exploiting Non-profit organisations: (i) to portray themselves as credible organisations; (ii) to leverage legitimate entities as conduits for terrorism financing, including evading the freezing of assets protocols; (iii) to hide or obscure the clandestine movement of funds designated for lawful purposes, which are later diverted for activities associated with terrorism.<sup>7</sup>

Therefore, the government must implement specific measures to safeguard these sectors from exploitation and to identify and take decisive action against NPOs that are either being exploited by or are actively supporting terrorists or terrorist organisations. In the recommendation, FATF also protects such NPOs by not interfering with or obstructing legitimate charitable activities.

Expressly in Indonesia, NPOs are understood with operationalisation meaning as referring to the definition used by the Financial Transaction Reports and Analysis Center (PPATK) in its report, stated that an NPO is an Organisation that is voluntarily established and formed by the community in accordance with shared aspirations, will, needs, interest, activities, and goals. Its purpose is to engage in development activities to attain the

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<sup>6</sup> According to FATF, a Non-profit organisation that primarily engaged in expressive activities, including programs centered on sport and recreation, art and culture, and interest called as Expressive NPO. While a Non-profit organisation that are mostly concerned in service activities, such as housing, social assistance, education, and health care called as service NPOs. Read further in FATF Report: Risk of Terrorist Abuse in Non-Profit Organisations, June 2014 (<https://www.fatf-gafi.org/en/publications/Methodsandrends/Risk-terrorist-abuse-non-profits.html>)

<sup>7</sup> Financial Action Tasks Force (FATF) (n 2).

objectives of the Republic of Indonesia based on Pancasila<sup>8</sup> The definition of Community Organisation is based on Law Number 17 of 2013 and has been redefined by Law Number 16 of 2017 and Law Number 2 of 2017, which include amendments.

NPOs in Indonesia have three primary forms, which are then referred to as Community Organisations. NPOs can be either legal entities or non-legal entities (i.e., without formal legal entity status). The primary forms are:

- a) Foundation
- b) Association
- c) Community Organisation (non-legal entity status)

Based on the Guidance on the Implementation of Risk-based AML/CFT Programs related to the abuse of Non-Profit Organisations (NPOs) by the Financial Services Authority, NPOs are categorised into three groups: incorporated, registered, and unregistered.<sup>9,10</sup>

A community Organisation established voluntarily by the community, grounded in Pancasila and the Indonesian Constitution of UUD 1945, with similar aspirations and goals. In addition to the three primary forms, there are also other forms of NPOs, including cooperatives and political parties (whose existence is regulated by separate laws), Organisations that operate under specific laws, such as Education Legal Entities (which are regulated under Article 53 of Law No. 20/2003 on the National Education System);

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<sup>8</sup> Pusat Pelaporan Dan Analisis Transaksi Keuangan (PPATK), 'Laporan Riset: Pengkinian Indikator Transaksi Keuangan Mencurigakan Penyalahgunaan Organisasi Kemasyarakatan Dalam Pendanaan Terorisme Untuk Industri Perbankan' (2020).

<sup>9</sup> Otoritas Jasa Keuangan, 'Panduan Penerapan Program APU PPT Berbasis Risiko Terkait Penyalahgunaan Non-Profit Organisation (NPO)' (2022).

<sup>10</sup> Further, Otoritas Jasa Keuangan explained that it is possible for NPOs not to be registered as is allowed in accordance with Constitutional Court Decision Number 82/PUU-XI/2013. NPOs that do not register themselves with the authorised Government agency do not receive services from the Government. However, the state also cannot designate such NPOs as prohibited NPOs or prohibit the activities of such NPOs as long as they do not carry out activities that disturb security public order or commit violations of the law.

also NPOs that are structured as Non-Profit entities. Each of these forms will be described one by one as follows:

### **a) Foundation**

The Indonesian Law Number 16 of 2001, as amended by Law Number 28 of 2004 concerning Foundations, defines a foundation as a legal entity comprising distinct and designated assets dedicated to fulfilling specific objectives in the social, religious, and humanitarian domains and lacking membership. Based on this explanation, it can be understood that the Foundation's goal is not to seek profit or to be a Non-profit. Y. Sogar Simamora emphasised that the Foundation has distinctive characteristics. The foundations must be a legal entity, with its wealth separated and earmarked for non-profit purposes in social, religious and humanitarian fields. The foundation does not have members.<sup>11</sup>

Article 3 empowers the Foundation to engage in business activities that help it achieve its aims and objectives by forming new business entities and/or participating in current ones. The Law bans the Foundation from disclosing the outcomes of its business activities to the Trustees, Management, and Supervisors. Furthermore, the Elucidation of Article 3 of Law No. 28 of 2004 clarifies that the Foundation does not serve as a business container. In addition, the Foundation is unable to perform direct business activity. However, it must flow through a company entity that it creates or another business entity that shares the Foundation's riches.

The Foundation carries out its activities on a Non-Profit basis, but it needs income to finance its operations. The income is generated from business entities established by the Foundation. The income is not intended to enrich the Foundation's owner. Among other things, based on the elucidation of Article 5 paragraph (2), the wealth of the Foundation, which encompasses the outcomes of its business activities, constitutes the total assets of the

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<sup>11</sup> Y. Sogar Simamora, 'Karakteristik, Pengelolaan Dan Pemeriksaan Badan Hukum Yayasan Di Indonesia (Character, Management and Examination Charity Foundation in Indonesia.' (2012) 1 Jurnal Rechtsvinding: Media Pembinaan Hukum Nasional.



Foundation dedicated to fulfilling its goals and objectives. Consequently, individuals serving as members of the Foundation's Trustees, Management, and Supervisors do so on a voluntary basis, without any compensation in the form of salary, compensation, or honoraria.

One of the weaknesses of the Foundation is its limited financial resources. Securing these funds is a challenging task that requires focus and hard work. The business entity will be the Foundation's capital to ensure its continued survival. Therefore, the Foundation can have multiple business entities, thereby bringing numerous benefits. Y. Sogar Simamora, in this case, emphasises that the opportunity for abuse of the Foundation can occur when the Foundation engages in business activities to further the aims and objectives of its establishment by creating a business entity or participating in an existing one. In this case, there is a contradiction between the provisions stating that the Foundation is not profit-oriented and, on the one hand, legal entities are for-profit.<sup>12</sup>

However, it is consciously understood that if the Foundation only bases its activities solely on the initial wealth, the purpose of establishing the Foundation will be complicated to achieve. However, if the Foundation makes its efforts, then all income and debts will give rise to the Foundation's rights and obligations. If the Foundation receives income in the form of donations or assistance, it must be reported in the annual report, which is prepared in accordance with generally accepted accounting principles. In this case, Y. Sogar Simamora emphasised that the urgency of transparency and accountability is needed to ensure that Foundation organs carry out the functions of good governance, transparency and accountability as public organs.<sup>13</sup>

## **b) Association**

The legal basis for the implementation of the Association is the Regulation of the Minister of Law and Human Rights Number 3 of 2016 outlines the

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<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

procedures for submitting applications for legal entity ratification and approval of amendments to the articles of association, as amended by the Regulation of the Minister of Law and Human Rights Number 10 of 2019 concerning Associations. The provisions of Article 1, paragraph 1, of the mentioned Regulation of the Minister of Law and Human Rights stipulate that an association is a legal entity formed by a group of individuals to achieve specific common goals and objectives in social, religious, and humanitarian domains without distributing profits to its members. Based on the definition, it can be understood that the Association also consists of three types, namely:

- Types of social fields;
- Religious type; and
- Humanitarian type.

Many associations developed in society after the existence of foundations and community Organisations. This Association serves as a forum for carrying out activities in the social and humanitarian fields, as well as other endeavours that align with the founder's and its members' goals to achieve common objectives. Associations emphasise the nature of cooperation, assistance, harmony, and unity.

Associations have advantages and disadvantages. The advantage of this form of Association is that the founder can act as an independent legal subject in the Law. An association in the form of a legal entity can conduct civil relations under its name. Thus, the Association has the authority to perform acts in the field of Civil Law, such as buying and selling, leasing, land ownership, and other legal acts, as long as the rules permit them.

Unincorporated associations also have advantages and disadvantages. The advantage is the easy establishment process, which does not require authorisation from the Ministry of Law and Human Rights. At the same time, the disadvantage of the form of an unincorporated association is that it is not considered an independent legal subject that can perform unlimited

actions. Therefore, the actions that can be carried out are more limited, precisely actions in the field of civil Law. Article 11, point 9 of the 1993 *Staatsblaad* emphasises that if an association without a legal entity requires civil services, it is necessary to involve a third party. However, this is a non-legal entity association.

In the context of financial accountability and transparency, the form of Association is not required by applicable regulations. Given this, the form of association is also highly vulnerable to abuse as a means of funding Terrorism. Given that, in essence, both Foundations, Associations, and Mass Organisations are the same, the legal rules related to the Association should also regulate the obligation of financial accountability by the Association as a form of public supervisory participation.

### **c) Community Organisation – a Non-Legal Status**

The definition of Community Organisation based on Article 1 point 1 of Law No. 17 of 2013, amended by Government Regulation in Lieu of Law No. 2 of 2017, pertains to amendments regarding Community Organisations, is "an Organisation established and formed by the Community voluntarily based on common aspirations, will, needs, interests, activities and goals to participate in Development for the achievement of the objectives of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia". This type of mass Organisation exemplifies the freedoms of association, assembly, and expression, integral to human rights within the nation and state, as guaranteed by the Indonesian 1945 Constitution. According to Article 4, Community Organisations are voluntary, social, independent, Non-Profit and democratic.

Based on these objectives, Community Organisations are certainly not for profit. According to Article 6, Community Organisations function as a means of:

- Channeling activities in accordance with the interests of members and or the objectives of the Organisation;
- Guidance and development of members to realise Organisational goals;
- Channeling the aspirations of the Community;
- Community empowerment;
- Fulfilment of social services;
- Community participation in maintaining, preserving, and strengthening national unity; and
- Maintaining and preserving norms, values, and ethics in the lives of society, nation, and state.

Community Organisations in the form of a legal entity will be automatically registered under Community Organisations Law, which can then be formed into two different entities: a Foundation in the case of having no membership and an Association in the case of having membership (see Article 11). Meanwhile, Community Organisations that do not have legal entity status can continue to operate after obtaining a separate Certificate of Registration from either the Ministry of Home Affairs or the Local Government. It depends on the number and scope of its membership.

The state affords significant leeway for the realisation of freedom of association and assembly, which can take any form. Therefore, excellent and controlled supervision must be carried out. Other difficulties reported by PPATK are related to monitoring activities involving banking accounts in the event that the Community Organisations are not registered. The account will be used in the name of the individual, not the name of the Community Organisations.<sup>14</sup>

Its financial management must be transparent and accountable, and an account at a national bank must be used. Article 38 then determines that Community Organisations are obligated to prepare financial accountability

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<sup>14</sup> Pusat Pelaporan Dan Analisis Transaksi Keuangan (PPATK) (n 8).

reports in accordance with general accounting standards or the Articles of Association and/or Bylaws and are required to publish these reports to the public on a periodic basis.

Additionally, Article 39 allows Community Organisations that are legal entities to establish business entities to meet the needs and ensure the survival of the Organisation. Civil Organisations can be empowered to improve performance and maintain the organisation's survival by continuing to respect and consider aspects of Community Organisations' history, track record, role, and integrity in the life of society, nation, and state.

The business activities that can be carried out by NPOs, namely in the form of business entities, need to be given attention. It means that there is a source of income for legitimate businesses. Jae-myong Koh emphasises that Legitimate Businesses are a versatile tool for terrorist financing. Nevertheless, even after 9/11, legitimate businesses still seem to be an important factor both for terrorist groups and for counter-terrorism policymakers. Legitimate businesses are worthy of added attention from law enforcement authorities, as even a few remaining firms can provide a perfect opportunity to trace the money trail and catch a 'big fish'.<sup>15</sup> In this sense, Jae-myong Koh also gave many examples of Usama bin Laden, who had various businesses spread across several regions and became a support for funding his terrorist activities.<sup>16</sup>

### **Indonesian Portrait of Anti-Terrorism and Terrorist Financing**

The Crime of Financing of Terrorism is regulated explicitly in Law Number 9 Year 2013, Article 1 number 1, defines Financing of Terrorism as any action to provide, collect, give, or lend funds, either directly or indirectly,

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<sup>15</sup> Jae-myong Koh, *Suppressing Terrorist Financing and Money Laundering* (Springer 2006).

<sup>16</sup> Ibid.

with the intention to be used and or known to be used to carry out terrorist activities, terrorist organisations, or terrorists.

The forms of criminalisation of terrorism financing are as follows:

Article(s)	<i>Element of Crime</i>
Art 4	a) Intentionally b) providing, collecting, giving, or lending Funds, c) directly or indirectly, d) With the intention of being used wholly or partly to commit the Crime of Terrorism, terrorist Organisations or terrorists
Art 5	e) committing criminal conspiracy, attempt, or assistance f) to commit terrorism financing
Art 6	g) Intentionally h) planning, organising, or mobilising other persons i) to commit a criminal offence, as referred to in Article 4

Inter alia, with the criminalisation, it is also necessary to note the provisions of Article 602 of the Indonesian National Criminal Code (Law Number 1 of 2023), which criminalises terrorism financing in the amended and updated Criminal Acts of Terrorism. Article 602 of the Indonesian National Criminal Code stipulates:

*Every person who provides, collects, gives, or lends funds, either directly or indirectly, with the intention of being used wholly or partially to commit the crime of terrorism, terrorist Organisations, or terrorists shall be punished for the crime of terrorism financing with a maximum imprisonment of 15 (fifteen) years and a maximum fine of Category V.*

Through systematic interpretation, the provisions of Article 622, paragraph (1), letter bb, of the Indonesian National Criminal Code explicitly state that

Article 4 of Law Number 9 of 2013 is revoked and declared invalid. Therefore, the provision must be read as the provision of Article 622 paragraph (20) of the Indonesian National Criminal Code requires, namely: "in the event that the provisions of the Article regarding the criminal act of financing terrorism as referred to in paragraph (1) letter bb refer to Article 4 of the relevant Law, the references is replaced with Article 602 of this Law". Nevertheless, the provision of Article 602, titled "Terrorism," which should refer to an amendment to the Terrorism Law, in this case Article 11 of the Terrorism Law, must be declared revoked and invalid. It indicates that the provision of terrorism funding is not reconsidered as a separate entity, distinct from the regulation of terrorist funds, in the approach to Terrorism Law. Thus, the urgency of regulating terrorism funding as a separate legal provision is no longer considered important, as stipulated in Article 602 of the Indonesian National Criminal Code. The Indonesian National Criminal Code will be effectively implemented as of 2 January 2026.

Jodi Vittori explained Terrorism as premeditated, politically motivated violence perpetrated against noncombatant targets by individuals or subnational groups, usually intended to influence an audience. The elements of Terrorism as a crime are as follows:<sup>17</sup>

- a) Premeditated or planned.<sup>18</sup>
- b) Politically motivated or having political motives<sup>19</sup>
- c) The actions must be violent in accordance with his beliefs;
- d) It targets noncombatants who cannot defend themselves;
- e) The perpetrators are individuals or subnational groups, not military groups of a state or war fleet;
- f) Intended to influence the audience.

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<sup>17</sup> Jodi Vittori, *Terrorist Financing and Resourcing* (Praeger 2011).

<sup>18</sup> Furthermore, it is explained that in this element, there is an element of will and decision that precedes it to commit acts categorised as Terrorism by other criteria, such as the purpose of violence, not spontaneous, not planned, and unorganised mass riots.

<sup>19</sup> In the sense of whether the terrorist intends to achieve political power for his or her benefit or to use that power to bring about changes in society, religion, or economic conditions;

Terrorism financing can be based on the strategy used to obtain, move, and store the funds. In relation to this, Jodi Vittori differentiates terrorist organisations into seven categories:<sup>20</sup>

- a) Lone wolf that pose a risk to the Law due to their small size and potential dependence on other groups. Lone Wolf has internal resources. Lone wolf can live without external funding.
- b) State Sponsored that need funding from the sponsoring country;
- c) Franchise that receives most of its funding from one source but is diversified enough to remain autonomous. If the main sponsor withdraws Support, the terrorist Organisation will weaken, although it is unlikely to become extinct. Its funding strategies are diverse, and it has a high degree of autonomy;
- d) Bundled Support receives funding from non-state entities and a wide variety of funding sources while leveraging funding sources from like-minded groups. These terrorist Organisations receive funding sources only as long as their actions satisfy their donors or until the donors shift their Support to other available alternatives.
- e) State Sponsoring, with characteristics that must have a very high ability to possess what is deemed worthy of trading with the state. Terrorist Organisations also consistently achieve a very high degree of autonomy.
- f) Shell State, where funding comes from, forces the civilian population to provide Support, such as paying revolutionary taxes, and terrorists steer the economy to their advantage. This shell condition will only last until a more substantial group comes along, such as rival terrorists, warlords, a new local government, or foreign powers.

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<sup>20</sup> Jodi Vittori (n 17).



- g) Transnational Corporation exploits globalisation, especially in terms of communication and transportation.

In particular, Thachuk and Rollie explain, in relation to this form of the terrorist Organisation, the use of the term "Terrorist Criminal Enterprises," which refers to the existence of Terrorism that has continued to be a gangster-like activity for decades and successfully demonstrates the adaptability of terrorist groups in the 21st century. The financing of terrorist operations has also included the payment of covert operations and the purchase of weapons and explosives, which has required satisfactory types of transactions. Some groups have gradually transformed into organised crime. In contrast, others have quickly jumped on the bandwagon, taking advantage of the illegal trade as an opportunity to advance their ideology, acquire new weapons, and grow their Organisations.<sup>21</sup>

Jonathan M. Winer explains funding sources for Terrorism and that Terrorist financing options are limited, with Islamic terrorists accessing significant amounts through philanthropic work in enclaves like Bosnia, Kosovo, Kashmir, and Chechnya. Other methods include fraudulent conversion of social benefits, migrant smuggling, document fraud, auto theft, gun running, and working for money. Money, the lifeblood of organised crime, flows freely through the global financial system.<sup>22</sup>

The Financial Action Tasks Force (FATF) explains how terrorism funding gets its income in various ways as follows:<sup>23</sup>

- a) Private donations
- b) Abuse and Misuse of Non-Profit Organisations
- c) Proceeds of Criminal Activity
- d) Exploiting local and diaspora populations and businesses

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<sup>21</sup> Kimberly L. Thachuk; Rollie LAL, *Terrorist Criminal Enterprises: Financing Terrorism Through Organized Crime* (Praeger 2018).

<sup>22</sup> Jonathan M. Winer, 'Globalization, Terrorist Finance, and Global Conflict: Time for a White List?', *Financing Terrorism* (Kluwer Academy Publisher 2003).

<sup>23</sup> Financial Action Tasks Force (FATF) (n 2).

- e) Kidnaping for ransom
- f) Self-Funding
- g) Legitimate commercial enterprise
- h) State Sponsorship of Terrorism

Based on the funding characteristics of terrorist organisations, it can be understood that the presence of state actors and non-state actors is also significant for the acquisition, transfer, and storage of resources and sources of funds in terrorist financing. Donations from non-state sources can come from individual donors or be collected from charitable organisations. Donors can be deceived with their donations after being told that donations will be allocated to widows and orphans and not to suicide bombers. Nevertheless, in the end, donors are forced to give money to terrorist organisations.

Consciously, terrorists need funding to finance their terrorist acts. It starts with activities to get money (to collect), followed by strategies to move money (to move), and up to strategies to store money or the value of other goods (tangible) so that when needed, the money or value is already available. At each of these stages, Terrorism requires resources that can support it. The Vulnerability of the parties, in this case NPOs, also needs to be considered. Related to the funding, one that is vulnerable to abuse is obtaining funding through donations, charity, investment in legitimate businesses, or money laundering.

Overall, Article 59 paragraph (2) of Community Organisation Law No. 16/2017 also provides prohibitions to Community Organisation. They are prohibited in:

- a) Receiving from or giving to any party donations in any form contrary to the provisions of the Law and/or
- b) Raising funds for political parties.

## **Vulnerabilities of NPO to Terrorist Financing**

In specific, it can be said that Non-profit organisations are vulnerable to Terrorist Financing. The FATF explains that vulnerability is a threat that can be exploited or that may support or facilitate its activities. In this context, it could encompass the broader financial system, as well as the mechanisms and products used to transfer and store funds. A vulnerability must be distinct from a threat, but it must also include factors that represent weaknesses in AML/CFT supervision. The FATF makes it clear that terrorist groups target NPOs for access to materials and funds, as well as exploitation of their networks, and deliberately misuse NPOs.<sup>24</sup>

The vulnerability of NPOs can be viewed from two perspectives: organisational and sectoral. Vulnerability refers to sectoral characteristics that create Vulnerability to Terrorist Financing. Meanwhile, based on the results of the regional risk assessment on Non-profit organisations and Terrorist Financing in 2017, it can be understood that Vulnerability is understood as an assessment of Vulnerability on two things, namely:

- a) Sectoral factors, which specifically refer to the operationalisation of NPOs; and
- b) Regulatory factors, which relate to the monitoring and disruption capabilities of NPOs.

The Indonesian FIU, in 2022, explains Risk Formation Factors as below:<sup>25</sup>

- i. The threat consists of:
  - a) Real Threats that are:
    - number of community organisations;
    - number of community organisations related to the List of Suspected Terrorists and Terrorist Organisations

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<sup>24</sup> Ibid.

<sup>25</sup> Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), 'Pengkinian Penilaian Risiko Organisasi Kemasyarakatan Disalahgunakan Sebagai Sarana Tindak Pidana Pendanaan Terorisme' (2022).

- Number of suspicious financial transaction reports with indications of criminal acts of terrorism financing related to community organisations and affiliates
- Number of analysis results and information from Indonesian FIU related to community organisations and Affiliates
- Number of investigations of terrorist financing indication related to community organisations and affiliates
- Number of prosecutions of terrorist financing indication related to community Organisations and affiliates
- Number of court decisions of terrorist financing indication related to community Organisations and affiliates

b) Potential threat, that is, Self-Assessment

ii. Vulnerability consists of:

a) Real Vulnerability, that are:

- Capability of Supervisory and Regulatory Agencies
- Capability of Reporting Parties
- Capability of law enforcement agencies
- Capability of Community Organisation

b) Potential Vulnerability, that is, self-assessment

iii. Impact consists of

a) Real Impact that is:

- Nominal report of suspicious financial transaction with indication of Terrorism Financing related to mass Organisations and affiliates
- nominal results and information on the results of PPA TK analysis of indications of terrorism funding related to community Organisations and affiliates

- nominal investigation of indications of terrorism funding related to community Organisations and affiliates
- Nominal prosecution of indications of terrorism funding related to community Organisations and affiliates
- Nominal court decisions of indications of terrorism funding related to community Organisations and affiliates.

b) Potential Impact that is self-assessment

Notes from the risk assessment are based on Indonesia's experience with sectoral vulnerabilities, as outlined in Presidential Regulation No. 18/2017, which requires NPOs to verify the identity of donors with a minimum value of IDR. 5,000,000.00 or more. Additionally, NPOs cannot receive donations from individuals whose identity cannot be confirmed or from those included in the designated entity list (DTTOT). Conversely, these provisions also apply to NPOs that wish to donate to other parties.

The Council of Europe<sup>26</sup> further explains the reasons for NPOs' vulnerability. The reasons are:

- NPOs are uniquely positioned to harbour vulnerabilities that lead to criminal exploitation. Such opportunities are considered to be particularly significant when there is a lack of understanding of the size, scale or scope of the sector and there are deficiencies, or when there are deficiencies or gaps in the regulatory sector;
- NPOs can attract high levels of trust;
- The nature of NPOs is very diverse;
- Easy to establish;
- Can rely on one or two individuals who play an essential and unsupervised role;

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<sup>26</sup> Council of Europe, 'Project against Money Laundering and Terrorist Financing in Serbia (MOLI Serbia)' (2013).

- It is a powerful tool to bring Communities and their groups together;
- Lack of commercial experience;
- Lack of segregation of duties;
- Conducts large amounts of cash transactions;

NPOs can be targeted for abuse by individuals or groups with malicious intent, who use the Organisation as a front to raise funds that are then used to support terrorist activities. However, not all NPOs are vulnerable to terrorism financing. NPOs that have strict monitoring systems and policies in place to prevent terrorist financing are less susceptible to vulnerabilities. However, this risk remains and needs to be addressed with appropriate measures, such as increasing transparency, strengthening supervisory mechanisms, and conducting strict verification of the source of funds received. Related to this issue of supervisory, Radiah Othman and Rashid Ameer<sup>27</sup> emphasised the vulnerability of NGOs, in this case Islamic NGOs, to terrorism financing for the following reasons:

- a) Gaps in the supervision, monitoring, transparency, and regulation systems that allow terrorist Organisations to infiltrate and use NPOs as a means to obtain funds so that terrorist Organisations can easily hide the origin of their funds;
- b) Inadequate verification mechanism of funds by some NPOs, and ensure that the funds received do not come from sources related to Terrorism. In this case, there needs to be clear policies and procedures for receiving and using funds to reduce the risk of terrorism financing;
- c) NGOs can easily be used as a means of collecting funds to support terrorist activities by terrorist Organisations.

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<sup>27</sup> Radiah Othman and Rashid Ameer, 'Institutionalisation of Risk Management Framework in Islamic NGOs for Suppressing Terrorism Financing: Exploratory Research' (2014) 17 *Journal of Money Laundering Control* 96.

Terrorists and terrorist Organisations may exploit a number of NPOs in various sectors to obtain and move funds, then provide logistical support, support terrorist recruitment, or otherwise support terrorist organisations and operationalisation. Such abuse by terrorists and terrorist organisations is not only to facilitate their actions but also to undermine the trust of donors and jeopardise the integrity of the NPO itself.

The issues of funding for terrorism, transparency, and accountability must be considered. Jonathan M. Winer<sup>28</sup> explains that terrorist finance can be viewed from this perspective as a subset of a more significant problem: non-transparent movements of money in a system to which much of the world has easy access. Financial non-transparency has facilitated not only Terrorism but also many of the world's more significant social ills, including civil war and civic instability.

NPO vulnerability issues related to fund collection and the use of funds are also linked to transparency and accountability issues. NPOs must exercise prudence in receiving and giving donations to carry out their activities. Presidential Regulation No. 18/2017 serves as a guideline for NPOs to carry out their activities, especially in recognising donors and recipients of donations. In consideration of point a, this Presidential Regulation emphasises that funding is one of the main factors in every act of Terrorism, so efforts to counter criminal acts of Terrorism must be followed by efforts to prevent the funding of Terrorism.

In the AML/CFT regime, Due Diligence is a mandatory guideline. In the AML/CFT regime built in Law No. 8 of 2010 and Law No. 9 of 2013, the Supervisory and Regulatory Institution plays a role in the compliance mechanism by the reporting party through compliance supervision. In exercising their rights and obligations, NPOs are required to comply with these requirements. Article 19 of Indonesian Presidential Regulation No. 18/2017 serves as a guideline, which, if not implemented correctly, can result in legal sanctions. Although these sanctions ultimately refer to the

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<sup>28</sup> Jonathan M. Winer (n 22).

Terrorism Financing Law, they are ultimately based on Law No. 16/2017, which provides for administrative sanctions.

Based on the explanation above, the issue of funding for terrorism requires a high level of compliance from NPOs with the standards of Customer Due Diligence and Enhanced Due Diligence (CDD/EDD) to reduce its risks and prevent the risks associated with the exploitation of its vulnerabilities.

### **NPO's Big Data Analysis to Fight Terrorist Financing**

The vast opportunity to conduct digital transactions through various electronic payment facilities has resulted in a complex ecosystem, making it more challenging to identify and trace suspicious financial transactions. It, in turn, triggers high volumes of transaction data, making it difficult to detect suspicious transaction patterns if relying solely on traditional tools. In this context, the widespread use of information technology in public services, communities, and personal use has led to the generation of large amounts of data, with significant usage in developed countries and recent momentum in emerging markets.<sup>29</sup>

Big data entails the processing of extensive datasets through sophisticated methodologies. The potential is utilised for predictive analytics, a complex field that forecasts unknown future events by identifying patterns in historical data.<sup>30</sup> Big Data tools can be used for mapping and visualisation to provide a more complete picture of the flow of illicit funds and identify geographies, industries, channels and parties suspected of being involved in a crime. The growth of Information Technology (IT) has led to a significant amount of data being generated from various sources, including social media, tweets, blogs, sensors, and cameras, at a rapid pace. With the latest technology, law enforcement agencies can detect potential crimes from the start, including digital-based financial crimes, such as cryptocurrency, robot

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<sup>29</sup> Ashish Kumar Jha and others, 'Big Data Analytics: An Indian Perspective' (2019) 8 International Journal of Recent Technology and Engineering 2943.

<sup>30</sup> Amirhossein Jamarani and others, *Big Data and Predictive Analytics: A Systematic Review of Applications*, vol 57 (Springer Netherlands 2024) <<https://doi.org/10.1007/s10462-024-10811-5>>.



trading, and the metaverse. The emergence of new technology will facilitate the effective implementation of AML/CFT programs or innovative ways of utilising technology to implement AML/CFT programs.

Big Data has characteristics of volume, velocity, and variety. Volume is related to the amount of data that must be managed, which is super significant. Velocity is related to the speed of data processing that must keep up with the rapid growth in the amount of data. Variety is related to the characteristics of diverse data sources, whether they come from structured databases or unstructured data. Thus, Big Data will be used more significantly in the business sector for profit-oriented purposes. It will help the director in decision-making by understanding the public's responses to their products through sentiment analysis, enabling companies to make more precise and accurate decisions based on data. Big Data will also help businesses prepare their plans by understanding customer behaviour and more. Can a Non-profit organisation use Big Data?

Big Data analytics can assist Non-profit organisations in making better decisions about how to deploy resources to enhance social Impact. In the context of Terrorist Financing, the data of the financial sources is essential. The problem is collecting information on sources of financial origin that support the activities of Non-profit organisations themselves. In the context of terrorism financing, NPOs are required to know whether the donor has a connection with terrorist activities or will be used for terrorist activities. On the issue of terrorism financing, NPOs are identified to have limitations in conducting accountability for the source of their funds.

There are gaps in the supervision, monitoring, transparency, and regulating systems that allow terrorist groups to enter and exploit NPOs to get funds quickly. Terrorist Organisations can simply hide the sources of the funds. It can be analysed based on the characteristics and the pattern of the donations. NPOs should employ Big Data analytics tools. It aims to handle massive amounts of data in various formats. Big Data will enable charities and other groups to transform an otherwise confusing mass of data into something of

actual worth by drawing insights. Big Data will benefit the NPO by enabling comprehensive analysis of donor characteristics, as well as promoting accountability, transparency, and data integrity, and facilitating the use of digital tools for data analytics. NPOs need to increase the number and amount of donors while also scrutinising the sources, accountability of profiles, and destinations of the donations.

Otherwise, Big Data can be used in the law enforcement process. Through Big Data, the process becomes more efficient and can cover aspects that cannot be identified based on the format of manual reports. The latest technology can also be utilised to enhance CDD/EDD capabilities and more detailed transaction monitoring. The significant effort to tackle the financing of Terrorism is through the use of compliance mechanisms. The CDD/EDD framework must be based on compliance with the reporting parties, who have a legal responsibility to carry out the work.

There are significant efforts mentioned in Indonesian Law Number 9 of 2013 concerning Terrorist Financing (also known as Law Number 9 of 2013) aimed at preventing terrorist financing. Article 11 of Law Number 9 of 2013 mentions that the efforts are:

- a) Implementation of the principle of recognising financial service users (through Customer Due Diligence or Enhance Due Diligence for the politically exposed person).
- b) Reporting and supervising compliance of financial service providers.

Article 12, subparagraphs (1) and (3) of Law Number 9 of 2013 stipulate that supervisory and regulatory institutions shall establish the principle provisions for recognising financial services users, including those related to terrorist financing. In this context, Financial Service Providers are obliged to apply the principle of recognising Financial Service Users. It means that customer due diligence shall be implemented to gain a thorough understanding of the customer. Furthermore, according to Article 13 of Law

Number 9 of 2013, Financial Services Providers are obligated to report Suspicious Transactions related to the Financing of Terrorism. Any intentional prohibition of Article 13 will result in the imposition of administrative fines on Financial Services Providers. Banks and financial Organisations use customer due diligence to verify beneficial owners and establish a business relationship with potential customers.

According to Fabian Teichmann and Marie-Christin Falker, Banks use three fundamental CFT mechanisms: customer due diligence (CDD), monitoring systems, and suspicious transaction reports (STRs) to verify beneficial owners and business relationships before entering into business relationships. Obtaining a customer's identity, particularly in developing countries, can be challenging due to the need for accurate legal information, including name, payment address, telephone number, date of birth, occupation, and nationality.<sup>31</sup>

Abdul Khalique Shaikh, Malik Al-Shamli, and Amril Nazir developed a relational model utilising social networking functions. It is a model of analysis for suspicious customers in the context. The model is based on eight rules, which are: common owner relationship, business relationship, sibling relationship, Spouse relationship, Mother-child relationship, SameAs relationship, and Family relationship.<sup>32</sup>

Based on the model developed by Shaikh et al. above, it will help develop Terrorist Financing databases, including the donors of charities, the patterns of donations, the numbers and amounts of donations, and the compliance of NPOs with their accountability and transparency obligations. Big Data must accommodate the actual and potential threats, vulnerabilities, and risks of NPOs. When integrated into Big Data, NPOs must understand how to analyse the data, which makes it easier to make decisions.

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<sup>31</sup> Fabian Teichmann and Marie Christin Falker, 'Terrorist Financing via the Banking Sector' (2024) 82 *Crime, Law and Social Change* 143.

<sup>32</sup> Abdul Khalique Shaikh, Malik Al-Shamli and Amril Nazir, 'Designing a Relational Model to Identify Relationships between Suspicious Customers in Anti-Money Laundering (AML) Using Social Network Analysis (SNA)'.

## **CONCLUSION AND RECOMMENDATIONS**

The development of technology currently poses a challenge to terrorist financing. At the same time, all parties must utilise technology to fight terrorism and financing of terrorism and other sophisticated crimes. Non-profit organisations play a significant role in combating terrorist financing and must enhance their capability and capacity to comply with the Law in identifying their clients or donors, as well as ensuring their financial accountability and transparency.

Big data analysis, which has been developed to analyse other crimes, will help to fight Terrorist Financing. Big data will be able to store data, analyse it, and be used to break the chain of Terrorist funding for Terrorist activities.